

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

TONY FISHER, aka KELLIE)	
REHANNA,)	CASE NO.: 4:19-CV-1169
)	
Plaintiff,)	
)	JUDGE SARA LIOI
vs.)	
)	<u>NOTICE OF FILING THE DEPOSITON</u>
FEDERAL BUREAU OF PRISONS,)	<u>OF ELIZABETE STAHL, D.O.</u>
<i>et al.</i> ,)	
)	
Defendants.)	

Plaintiff, Tony Fisher, aka Kellie Rehanna, by and through counsel, hereby notifies this Court and Defendants that the deposition of Elizabete Stahl, D.O. that was taken on July 21, 2021 (attached hereto) has been filed in this case.

Respectfully submitted,

/s/Edward A. Icove

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CERTIFICATE OF SERVICE

On August 27, 2021, this document was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this through the Court's system.

/s/ Edward A. Icové
Edward A. Icové

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

ORIGINAL

Tony Fisher, aka
Kellie Rehanna,

Plaintiff,

vs.

Federal Bureau of
Prisons, et al.,

Defendants.

Case No. 4:19CV1169
Sara Lioi, J.

Deposition of Elizabeth Stahl, M.D., a witness
herein, called on behalf of the plaintiff for oral
examination, pursuant to the Federal Rules of Civil
Procedure, taken before Karen A. Toth, Notary Public
in and for the State of Ohio, via Zoom, on
Wednesday, July 21, 2021, commencing at 9:01 a.m.

1 APPEARANCES:

2 On behalf of the Plaintiff:

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8 Joshua Gardner, Esq.
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12
13 Also present:

14 Kellie Rehanna

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WITNESS:

CROSS

Elizabeth Stahl

by Mr. Icove

4

- - -

1 MR. ICOVE: Josh, will you
2 stipulate for the record that the court
3 reporter can swear in the doctor by Zoom?

4 MR. GARDNER: Yes.

5 ELIZABETH STAHL, M.D.
6 Of lawful age, being first duly sworn, as
7 hereinafter certified, was examined and testified as
8 follows:

9 CROSS-EXAMINATION

10 By Mr. Icove:

11 Q Good morning, Doctor. My name is Ed Icove and
12 I represent Tony Fisher, aka Kellie Rehanna,
13 who I will be referring to as Kellie.

14 Obviously based upon your preference
15 you can refer to her any way that you'd like.

16 Today's deposition is being taken
17 pursuant to agreement of counsel. And you are
18 designated to testify, as you note, on Items 3
19 through 7 of the Amended Rule 30(b)(6) Notice
20 which was filed on July the 14th in the case
21 Tony Fisher versus Federal Bureau of Prisons,
22 et al., case number 4:19CV1169 in the United
23 States District Court, Northern District of
24 Ohio, Eastern Division.

25 We are going to cover those topics

1 first and after those topics have been covered
2 I will just ask you a few more questions.

3 Have you ever had your deposition taken
4 before?

5 A Yes.

6 Q So you understand the basic ground rules. If
7 you don't understand something you can ask me
8 to rephrase it. Although this is formal and
9 we're doing it under oath, it's more like a
10 conversation just so that we can get
11 information from you and find out information
12 that you can give to us that will enlighten us
13 on this case.

14 A I understand.

15 Q So if you have a problem with a question of
16 mine please feel free to ask me to rephrase
17 it?

18 A Thank you. I will.

19 Q Okay. Just as a little bit of a background
20 because I don't have any on you in writing,
21 what is your position at the Bureau of
22 Prisons?

23 A I am the incoming medical director. And I say
24 incoming because there is a period of
25 transition. The outgoing medical director is

1 still on duty until August 27th.

2 Q And that's Dr. Allen?

3 A That is correct.

4 Q And it's your understanding, that you're
5 taking his place for today's deposition?

6 MR. GARDNER: Objection. I'm not
7 exactly sure what you're referring to. We've
8 designated Dr. Stahl as a 30(b)(6) designee.

9 MR. ICOVE: Okay. That's fine.

10 Well, we'll get into the nitty-gritty,
11 but that's fine.

12 Q So what is your current position?

13 A I'm the current medical director for the
14 Bureau of Prisons.

15 Q Is that for the entire United States?

16 A Yes.

17 Q How long have you had that position?

18 A March 2nd of 2021.

19 Q And before that what was your position?

20 A I was a clinical director at FCC Allenwood in
21 Pennsylvania.

22 Q How long were you there?

23 A From August of 2009 until I reported to D.C.
24 on March 2nd.

25 Q Before that did you hold any other positions

1 at BOP?

2 A No.

3 Q Where did you work?

4 A Before then I was actually a resident. I was
5 in resident training, physician resident
6 training at Geisinger Medical Center in
7 central PA.

8 Q How long were you there?

9 A I was there four years.

10 Q Could you briefly give me a couple sentences
11 on your educational background and your board
12 certifications?

13 A Sure. I graduated high school in Portugal. I
14 then did a GED here in Rhode Island. I have a
15 Bachelor's Degree in nursing. Graduated from
16 nursing school at Rhode Island College in
17 1998.

18 I decided to then go to medical school,
19 so in 2001 I went to medical school. I
20 graduated in '05 from University of New
21 England College of Osteopathic Medicine.

22 In July of '05 --

23 Q Can we take a quick break here for a second.

24 The marshal is on the line for Tony or Kellie.

25 (Discussion off the record.)

1 MR. ICOVE: Thank you, Josh, for
2 your understanding.

3 Q I think I just asked you a little bit about
4 your educational background and what, if any,
5 board certifications you have.

6 A Yes. So I think I had finished with my
7 medical school graduation which was in June of
8 '05. I then completed a four year residency
9 training in combined internal medicine and
10 pediatrics at Geisinger Medical Center in
11 Danville, PA. And I am boarded by the
12 American Board of Internal Medicine.

13 Q I'm sorry, I didn't hear that last statement.

14 A I am certified by the American Board of
15 Internal Medicine.

16 Q Thank you.

17 Do you consider yourself to be a gender
18 dysphoria specialist?

19 A No.

20 Q Have you ever treated Kellie?

21 A I never was a direct provider to the patient,
22 no.

23 Q And it's also fair to say that you've never
24 met her personally?

25 A Yes, that's correct.

1 Q And the first time you've met is on this Zoom
2 which she's now listening to; is that fair?

3 A Yes.

4 Q Are you a member of the TEC?

5 A No.

6 Q Were you ever a member of the TEC?

7 A When the TEC was first formulated, which I am
8 sorry, I don't remember those dates, I was
9 asked to review a couple of patient charts in
10 regard to their hormone levels, but that was
11 very early on. And no, I was never a formal
12 member of the TEC.

13 Q Besides reviewing hormone levels did you do
14 anything else for the TEC?

15 A No.

16 Q So let's go through the items that are listed.
17 Did you get a copy of those items?

18 A Yes, I did.

19 Q So let's look at number 3. Can you answer
20 that particular question for us, please?

21 A Just for my benefit, because I did have an
22 earlier version and then an amended version,
23 it's --

24 Q I can read it to you. Why don't I do that.

25 A He just gave me the amended, so that's great.

1 Q Okay. Good.

2 A But to get my head in a good frame it is
3 actually good to read it out loud, so I will
4 do that. "Do the Defendants require any
5 gender dysphoria experience, knowledge or
6 otherwise of any clinician or contractor that
7 treats inmate with gender dysphoria where
8 Plaintiff is housed?"

9 So, Mr. Icove, how I would answer that
10 is the Federal Bureau of Prisons as an agency
11 expects every single institution in the nation
12 to be able to provide gender-affirming
13 treatment. And by and large gender-affirming
14 treatment is provided by primary care
15 providers both in the community and now in the
16 Federal Bureau of Prisons.

17 With that in mind, the Bureau has
18 participate, has shared continuous medical
19 education programs for all of their providers
20 to different -- many courses that have been
21 done at the national level.

22 We also provide -- there is a
23 committee, a working committee, a support
24 committee that is called the Transgender
25 Clinical Care Team which is composed of a

1 couple of physicians, a psychologist,
2 pharmacist, social workers who are a support
3 group for line providers at the institutional
4 level.

5 So the answer -- does the Bureau
6 require? The answer to that question is we do
7 not have the requirement, or it's not written
8 in policy or any regulatory body that I am
9 aware that someone gets a specific
10 certification in gender dysphoria; however we
11 are all expected -- all institutions are able
12 to have the means to provide gender-affirming
13 care.

14 Q And as you indicated there is no specific
15 documentation for that particular requirement;
16 is that fair?

17 A Yes. And maybe the only exception to that
18 would be for people who have had a special
19 interest in this area of medicine, who have
20 gone outside of the Bureau to participate in
21 multiple continuous medical education courses.

22 I have done that. So I have my
23 certificate of completion on having attended
24 multiple of those courses through UCFF, WPATH,
25 Harvard University, et cetera.

1 Q As you indicated, it's my understanding that
2 that particular completion of those particular
3 courses is strictly voluntary based upon the
4 particular doctor involved?

5 A That is correct. And it's certainly the
6 standard. We don't require or dictate what
7 kind of education physicians get in regard to
8 heart disease or diabetes. There are a number
9 of other diagnoses. So we do depend on the
10 self awareness of the providers to seek out
11 those opportunities, even though we do provide
12 a fair amount, including a clinical guidance
13 document that pertains directly to
14 gender-affirming treatment.

15 Q Okay. Are you aware whether or not the gender
16 dysphoria specialist has ever reviewed
17 Kellie's case?

18 A I did, in preparation for today, review in
19 fair amount of detail. I can't say that I
20 looked at every single document. I did not
21 find an endocrinologist consultation, if
22 that's the question.

23 Q Yes, that is. Yes. No endocrinologist or
24 someone who is a specialist in gender
25 dysphoria; is that fair?

1 A That is correct.

2 Q Okay. You mentioned documents that you
3 reviewed. Do you recall -- and obviously I'm
4 not going to hold you specifically to any one
5 particular document, but do you recall what
6 documents you reviewed? I assumed you
7 reviewed a lot of stuff, but go ahead.

8 A I'm sorry, I didn't understand the question.

9 Q Yeah. That was a little convoluted. I
10 apologize.

11 In preparing for responses to items 3
12 through 7 what documents did you review?

13 A I reviewed the medical record of the patient.
14 I reviewed the WPATH, few pertinent items of
15 the WPATH Version 7, and then the legal
16 documents that Josh sent me.

17 Q Okay. Before we talk about legal documents,
18 if they are legal documents from Josh to you
19 about the case they may or may not be
20 privileged. Just go ahead and identify them
21 for the record.

22 What I'm concerned about is I don't
23 want you to give me anything that is
24 privileged on any advice or consult you had
25 with Josh.

1 MR. GARDNER: I appreciate that,
2 Ed. I think to reframe the question to make
3 it easier for Dr. Stahl, Dr. Stahl did any of
4 the legal documents I shared with you form a
5 basis for your answering the 30(b)(6) topics?

6 THE WITNESS: The only documents I
7 understand were forwarded from your office,
8 and they were introducing to affidavits that I
9 had to just be prepared to speak to during the
10 course of this deposition.

11 Q Okay. Which affidavits were those; do you
12 recall?

13 A So there is a clinical guidance -- I can list
14 them.

15 MR. GARDNER: Just to be clear, I
16 think she's referring to the four documents
17 you had sent us.

18 MR. ICOVE: The declarations you
19 sent me?

20 MR. GARDNER: No, no. So the four
21 documents you had sent the court reporter and
22 cc'd me on.

23 MR. ICOVE: Okay. Good.

24 MR. GARDNER: That's in the binder.
25 That's what Dr. Stahl is referring to.

1 MR. ICOVE: Okay. Great.

2 Q So those particular documents, and those are
3 Exhibits 1 through 4?

4 A Yes.

5 Q You looked at those. Okay. Great. Any other
6 documents that you can think of?

7 A I can't think of any right now.

8 Q Okay. Good. If you do just let me know.

9 A Okay.

10 Q Was Kellie sent out to any outside gender
11 dysphoria specialists in regards to her
12 particular case?

13 A I did not see --

14 MR. GARDNER: Objection.

15 Q No, go ahead.

16 A No, I did not -- I saw that she had a
17 urologist appointment at one point. I did not
18 see an endocrinology consultation in her
19 chart.

20 Q Okay. Let's go on to Question No. 4. Yeah,
21 why don't you go ahead and read it.

22 A Question No. 4. The question is: "Do
23 Defendants require any gender dysphoria
24 experience, knowledge or otherwise of any
25 staff or contractor responsible for creating

1 treatment plans for the Plaintiff?"

2 And again, Question 3 partially
3 answered this question in that the answer is
4 that the primary care provider who is a
5 licensed independent medical provider, the
6 physician, is ultimately in charge of all
7 treatment plans for every patient over any
8 diagnosis. So even if the plaintiff, the
9 patient had gone out to secure and
10 endocrinology appointment, in the end it's
11 still the primary care provider who is the
12 lead, the pilot physician, if you will, in
13 developing a treatment plan.

14 So the same would apply again. The BOP
15 does provide CME education courses, has a CME
16 budget and allows physicians and advanced
17 practice providers to participate in outside
18 courses in gender specific courses, but there
19 is nothing regulatory in policy that dictates
20 any specific type of certification for these
21 patients to receive care. And, in fact, in my
22 opinion that would really preclude treatment
23 if certifications were required.

24 Q Thank you very much for your explanation which
25 I understand.

1 So based upon what you've told me, is
2 it fair to say that neither Exhibit 1 nor
3 Exhibit 2 that you were provided provide any
4 requirements that are listed under Item Number
5 4?

6 MR. GARDNER: Objection. Vague.

7 A Repeat the question.

8 Q Yeah. You had previously testified that there
9 weren't any specific documents that made these
10 requirements when we talked about 3, and I'm
11 just confirming that those requirements are
12 not contained -- or any requirements are
13 contained in Exhibit 1 or Exhibit 2?

14 A I'm going to --

15 MR. GARDNER: Objection. Vague.

16 Ed, I think to be clear, when you say
17 requirements, can you just be specific what
18 requirement we're talking about so the Doctor
19 can gave you a clear answer?

20 MR. ICOVE: Exactly.

21 Q Is there anything specific in Exhibit 1 or
22 Exhibit 2 which relate to the requirements
23 under Item Number 4?

24 MR. GARDNER: Same objection.

25 A Can I ask a question?

1 Q Yeah, please.

2 A I'm wondering, are you asking is there any
3 requirement for an endocrinologist
4 consultation in either Affidavit 1 or 2? Is
5 that the question? Whether our own policy or
6 clinical guidance manual require a provider to
7 involve an endocrinologist in the care of a
8 trans patient; is that the question?

9 Q Yes, it is. And you're referring to those
10 documents as affidavits. They are just
11 exhibits.

12 A Okay. Exhibit 1. Sorry.

13 Q That's fine. That's fine. A rose by any name
14 smells sweet. That's fine. I was just having
15 you confirm it with those particular
16 documents, because I couldn't see anything in
17 there that had any of those requirements. I
18 just wanted you to confirm that I'm not
19 missing something.

20 A Yes, you are correct.

21 Q Okay. Good.

22 From a review of Kellie's medical
23 chart -- let's go to Number 5.

24 A "What specialists have been consulted with
25 regard to Plaintiff's care?"

1 Q Correct.

2 A And the only consulting that -- again, I might
3 have missed. The only consultant that I know
4 for a fact she did see for hematology workup
5 was a urologist. It ended up being a negative
6 workup.

7 I did not see any other specialist
8 consultant, but I again did not do an entire
9 document review of the medical chart.

10 Q Based upon the review you did, it fair to say
11 that you didn't see any other referrals for an
12 epidemiologist or a dysphoria specialist; is
13 that fair to say?

14 A The -- so dysphoria specialists are an
15 umbrella term that usually refer to
16 psychologists. And she did have a fair amount
17 of interaction to have mental health issues.
18 According to the record there is a history of
19 significant anxiety. And so she did have a
20 fair amount of mental health work that was
21 obvious in the chart.

22 But again, if you are referring to an
23 endocrinologist, I did not see a referral to
24 an endocrinologist.

25 Q Okay. Can you look at Question No. 6, please?

1 A The Question No.6. "Why did Defendants inform
2 J. Barnes of the information contained in her
3 clinical note dated January 19, 2018?"

4 I did go to the chart, to the medical
5 record to review that particular entry, and I
6 don't have -- so --

7 THE WITNESS: Do we have that?

8 MR. GARDNER: Yes.

9 Q Did you see Exhibit 3?

10 A If it's okay, I'd like to review it again.

11 Q Please do. Please do. Take your time. I'm
12 not in any hurry.

13 A So the note in question here says the
14 following: "Discussed case with Region over
15 last several months as well as Chief Medical
16 Officer who confirmed there is no sex
17 reassignment surgeries being done at this time
18 and it is still considered an elective medical
19 procedure rather than medical necessity."

20 So my position, this note was written
21 on January 19, 2018. And this does not
22 reflect at all the position of the Federal
23 Bureau of Prisons as an agency in general.
24 And so I don't have a great explanation as to
25 why this entry was made, but we have been

1 provided gender-affirming specific treatment
2 for many years now and have presented national
3 conferences encouraging gender-affirming
4 treatment.

5 I actually had the opportunity to speak
6 with the chief medical officer who was
7 Dr. Allen who I share an office with at this
8 time, to see if he recalls a conversation with
9 Ms. Barnes, who is the author of this clinical
10 note, and he does not remember a conversation
11 with Ms. Barnes in this regard and confirmed
12 that at the time as the medical director he
13 has always encouraged and educated staff to
14 provide appropriate community standard
15 gender-affirming therapy.

16 Q So as I look this over, it's fair to say that
17 I should talk to Ms. Barnes about this
18 particular matter? That would be fair to say,
19 correct?

20 A That would.

21 Q Thank you for talking to Dr. Allen about it.

22 Is there anything else that he informed
23 you about as far as this entry was concerned?

24 A No. I mean, I asked him a very directed
25 question about this particular entry.

1 Q Did he confirm -- is it true that there were
2 no sex reassignment surgeries being done in
3 January of 2018?

4 A So to this date I am not aware that a
5 gender-affirming procedure has been completed;
6 however, that has never been my policy. So
7 just because it hasn't been done yet it just
8 -- there are a number of factors why that
9 might be the case. But it's never been the
10 Bureau's policy to be against gender-affirming
11 hormone treatment and/or gender-affirming
12 surgery.

13 Q In regards to this response that you've given
14 me, which I greatly appreciate it, is this
15 particular response documented in any BOP
16 manual or other document?

17 MR. GARDNER: Objection. Vague.
18 Ed, just to be clear, what are you asking?

19 MR. ICOVE: Well, I don't know if
20 she had a problem with it, but I'm more than
21 happy to --

22 Q Doctor, did you understand my question?

23 A No, I didn't.

24 Q Okay. Well, I'll rephrase it. Thank you.

25 You indicated that from talking to

1 Dr. Allen and from your knowledge, the fact
2 that there were no sex reassignment surgeries
3 being done as of January of '18 is incorrect;
4 is that what you told me?

5 A No.

6 MR. GARDNER: Objection.
7 Mischaracterizes the witness's testimony.

8 Q What did you tell me?

9 A I told you that I asked Dr. Allen if he
10 recalled a conversation with Ms. Barnes where
11 he might have given her the impression that
12 gender-affirming surgery was not medically
13 necessary. This is a double negative
14 sentence.

15 But essentially, in essence, he denied
16 ever giving any person in the field the
17 impression that gender-affirming surgery was
18 not medically necessary.

19 Q So it BOP's position that gender-affirming
20 surgery can be a medical necessity?

21 A It can, certainly. So all aspects of
22 gender-affirming treatments are individualized
23 and we know that only a small portion of trans
24 or gender nonconforming patients end up
25 needing surgery, but we do recognize that in

1 those cases it can be medically necessary.

2 Absolutely.

3 Q And that's done -- and I don't mean to put
4 words in your mouth, but that's done on a
5 case-by-case basis?

6 A Yes.

7 Q And that particular policy is contained in one
8 of the exhibits I gave you; is that fair to
9 say?

10 A Yes.

11 Q Okay. Just for the record, could you identify
12 where that's at?

13 A Did you --

14 Q I think it's page 19. Is that the page you
15 got? Page 19 of Exhibit 1. I'm just trying
16 to keep things moving.

17 A Yes. Yes.

18 Q That's all. Okay.

19 That's the first sentence of that
20 particular paragraph?

21 A That's correct. Which states, "Although
22 individuals may live successfully as
23 transgender persons without surgery,
24 gender-affirming surgery may be appropriate
25 for some and is considered on a case-by-case

1 basis," yes.

2 Q And I just have one other question about this
3 particular note that I'm confused on.

4 A Okay.

5 Q To the best of your knowledge, in January of
6 2018 had there been any sexual reassignment
7 surgeries done?

8 A Not to my knowledge.

9 Q And as of today you're not aware of any; is
10 that fair to say?

11 A Yes.

12 Q So BOP considers gender-affirming surgery to
13 be elective; is that fair?

14 A No.

15 Q It's not elective? It can be necessary in a
16 case-by-case basis, right?

17 A That is correct.

18 Q Okay. Thank you.

19 I'm sorry for this but I need to make
20 sure that I understand your testimony. Thank
21 you.

22 Let's go to Number 7, if we could
23 please.

24 A Number 7, "Why requests for gender-affirming
25 surgery have not been ripe for consideration

1 and approval over the past ten years;" is that
2 the question?

3 Q Yes. Thank you.

4 A So from what I understand we have been trying
5 to follow the WPATH criteria. And while the
6 WPATH specifically references the expectation
7 that gender-affirming therapy is provided at
8 all institutions, there have been patients who
9 just have not been able to meet all of the
10 WPATH criteria.

11 So from what I understand we have not
12 had -- and using your terminology -- a patient
13 who has been ripe for the gender-affirming
14 therapy. I am not aware of any case who has
15 been submitted to the medical director's
16 office for review of a gender-affirming
17 procedure to this date.

18 Q And that determination would be by the medical
19 director based upon the evaluation done by the
20 TEC?

21 A So the medical director would have final
22 clinical authority over the decision to pursue
23 gender-affirming surgery by policy because
24 it's considered an extraordinary type of
25 surgery. So very similar to a solid organ

1 transplant, which is considered a medical
2 necessary treatment. But because it's
3 considered medically extraordinary it would be
4 routed through and finally reviewed and
5 approved by the Office of the Medical
6 Director.

7 Q How do you define extraordinary for the
8 purposes of severe physical impairments?

9 A I have to review that. I'd have to refer the
10 policy to answer that.

11 Q Okay. That's fine. Is there a policy off the
12 top of your head that you can think of or --

13 A I know it's in the patient care program
14 statement for the Federal Bureau of Prisons.
15 I would have to research the exact section
16 that pertains to this language.

17 Q Okay. Well, if you could do that and give it
18 to your counsel at your earliest convenience,
19 that would be great.

20 Is there any other document that you're
21 referring to to determine whether or not
22 something is an extraordinary mental or
23 physical disability?

24 MR. GARDNER: Objection. Misstates
25 the witness's previous testimony.

1 Q Are there any other documents that you're
2 aware of that relate to what is determined to
3 be extraordinary medical/mental disorder?

4 MR. GARDNER: Objection.
5 Mischaracterizes the witness's previous
6 testimony.

7 Q Do you understand my question? Your attorney
8 is allowed to make objections during this
9 particular proceeding. He's not entitled to
10 make speaking objections, but I really don't
11 care because you're a professional and he's a
12 professional and I'm a professional. But the
13 rules provide he's not allowed to tip you off
14 as to what to say or what not to say.

15 Can you answer the question, or do you
16 need me to rephrase it?

17 A The part of the question that is confusing is
18 when you are adding extraordinary mental
19 disorder. I don't know what that means. So
20 we have policy that --

21 Q Let's drop off -- excuse me. I don't mean to
22 cut you off. Let's drop off the mental
23 disorder, let's just talk about the physical
24 disorder.

25 A Can you rephrase?

1 Q How does the BOP determine an extraordinary
2 medical --

3 A Procedure.

4 Q Exactly.

5 A Yes. So we do have -- I'm only aware of one
6 policy where that is covered and it is under
7 our patient care program statement which we
8 will provide.

9 Q Okay. Thank you so much. That's very
10 helpful.

11 A Uh-huh.

12 Q Now, we talked about Question 7, and I wanted
13 to know if you recall off the top of your head
14 what research are you aware of that support a
15 determination that gender-affirming surgery is
16 not ripe over the last ten years?

17 A Can you rephrase the question?

18 Q Yeah. What reasons were you -- what reasons
19 do you know, from what you've read and from
20 what you've reviewed in your position that
21 you're aware of that supported a determination
22 that for over the last ten years
23 gender-affirming surgery has not been ripe for
24 consideration or approval?

25 A Okay. So there has been a number of factors

1 that have been challenging for most patients
2 to be considered meeting all the requirements
3 of WPATH. One, if there are co-existing
4 medical or mental health conditions they need
5 to be reasonably controlled before a surgeon
6 will pursue gender-affirming surgery; 12
7 continuous months of hormone levels that are
8 at goal, to meet the patient's goals. So when
9 it's a trans they usually would need to be at
10 12 continuous months of at goal hormone
11 levels. That can sometimes be a problem for
12 some patients who are often noncompliant with
13 treatment, forget to pick up their meds,
14 sometimes they hoard their meds and stop
15 taking them without telling anyone. So that's
16 a challenge.

17 Being able to provide a
18 gender-affirming experience in a opposite
19 institution -- so for a trans female to be
20 able to be located, transferred to a female
21 institution for 12 continuous months without
22 running into trouble, security issues with
23 other prisons I know has been a challenge at
24 times.

25 Those are probably the main factors I

1 would suspect that have contributed to not
2 being able to meet all of the WPATH criteria.

3 And lastly maybe my -- another thought
4 is that surgeons require letters of support
5 for these procedures; one from a mental health
6 worker and one from a medical provider. And
7 so if there are noncompliance issues between
8 the patient or if there is distrust issues
9 between the treatment modality, if you will,
10 that also will lead to further pause.

11 And again I will bring up the medical
12 transplant of solid organs. While everyone
13 agrees that at the end of your liver's lifetime
14 that you would only live if you get a liver,
15 that certainly is something that we recognize
16 as necessary, but it doesn't mean that
17 everyone is actually going to get that liver.

18 So while we recognize the medical
19 necessity we certainly recognize that it does
20 not entitle someone for that procedure.

21 So I know that was a long winded
22 answer.

23 Q No, it was very informative and I appreciate
24 it because you answered a lot of the questions
25 that I have.

1 Are you aware of any other reasons
2 besides the ones you've indicated?

3 A Those are -- I'm sure there are many other
4 reasons. And again, because we make
5 individualized decisions and every case is
6 different from the next, but those would
7 probably be the top three or four categories
8 of major co-existing factors that go into this
9 decision.

10 Q Are those particular factors from any source
11 that you're aware of, or is this one that the
12 department has put together itself?

13 MR. GARDNER: Objection. Vague.

14 Q Did you understand the question?

15 A No, I didn't. It was a little vague. If you
16 could just narrow down or rephrase it and I'll
17 be able to answer.

18 Q Do these particular criteria -- and you've
19 mentioned four or five of them; are those from
20 any particular document; for example, the
21 WPATH? Are they from the factors of the WPATH
22 or are they something that the Bureau has put
23 together?

24 A Those factors are the criteria that I was
25 going over that has been particularly

1 challenging for in-prison federal inmates to
2 meet towards those specified by WPATH.

3 Q Good. So let's quickly go through those so
4 far as what you've reviewed for Kellie.

5 It's fair to say that she has had a
6 consistent well documented --

7 MR. GARDNER: Objection.

8 Q -- gender dysphoria?

9 MR. ICOVE: I'm sorry. I wasn't
10 done with the question.

11 MR. GARDNER: I'm sorry. I thought
12 you were, Ed.

13 MR. ICOVE: That's okay. By the
14 way, Josh, just so you know, I will stipulate
15 for the record that you are not going to waive
16 any objection that you make during the
17 deposition.

18 MR. GARDNER: I appreciate that.

19 MR. ICOVE: I do that with all
20 counsel.

21 MR. GARDNER: I appreciate that.
22 But we do object. Beyond the scope of the
23 30(b)(6) deposition.

24 You can answer to the extent of your
25 knowledge.

1 A Sorry. So what is the question?

2 Q You know what, I'm sorry, I don't need
3 necessarily to ask you. I don't need to ask
4 these of you, I can ask these of somebody
5 else.

6 MR. GARDNER: Ed, I was just going
7 to say --

8 MR. ICOVE: I'm not going to
9 quibble with you guys. There are plenty of
10 people that I can ask this of, but it's just
11 the thought that she was probably the best
12 person.

13 MR. GARDNER: Just as a reminder,
14 this isn't a speaking objection but just for
15 your edification we are making Dr. Eplin
16 available to answer exactly those types of
17 questions.

18 MR. ICOVE: Great. Thank you.

19 I was going to ask her about that
20 particular line of questioning. Thank you.

21 Q Is it your understanding that Kellie's
22 diagnosis includes gender dysphoria, panic
23 attack disorder and depression?

24 MR. GARDNER: Objection. Beyond
25 the scope of the Rule 30(b)(6) deposition.

1 Again, I'm just making an objection.

2 MR. ICOVE: I'll tell you what,
3 let's do this: At the end of the 30(b)(6)
4 categories I will go ahead and ask the
5 questions and we'll do it that way, which we
6 had talked about before. Okay. I'm sorry.

7 Q You indicated that you have reviewed Kellie's
8 record. Did you look at the record that had
9 the most recent estrogen level? It was dated
10 June 15, 2021.

11 A Yes, I did.

12 Q And what was that particular level?

13 A Her hormone levels were at goal. For a total
14 testosterone it should be less than 55, and
15 for an estradiol level it should be around
16 200.

17 Q So if there were more comparable levels in
18 this range she would be at goal; is that fair
19 to say?

20 A Any time that her total testosterone is less
21 than 55 and that his estradiol level is around
22 200 she will be considered to have female
23 level hormones, taking into consideration that
24 a native female will have levels anywhere
25 between the 80 to 200, sometimes 300 level.

1 So we do understand that with fluctuation of
2 levels in a native female might be slightly
3 different than we expect for gender-affirming
4 therapy, which is why the American
5 Endocrinology and the experts in this field
6 believe that a level of estradiol around 200
7 is considered at goal.

8 Q Okay. So now I'm going to ask you a few other
9 questions that aren't specifically -- although
10 I think they are reasonably connection to your
11 testimony. We'll start there. It will only
12 take a minute or two.

13 Is it fair to say that Kellie has been
14 diagnosed with gender dysphoria, panic attack
15 disorder and depression?

16 A So I did not go into any detail over the
17 mental health record. I do know from
18 reviewing the medical portion of her medical
19 record that panic attacks, anxiety in general,
20 depression were mentioned. Yes, she has had a
21 validated gender dysphoria diagnosis for quite
22 some time.

23 Q And based upon your review of the records and
24 your position, is it your opinion within a
25 reasonable degree of medical certainty that

1 her gender dysphoria is a serious medical
2 need?

3 MR. GARDNER: I'm sorry, Ed, you
4 dropped off there.

5 MR. ICOVE: Karen, you want to
6 read that back?

7 (Question read.)

8 MR. GARDNER: Objection. Beyond
9 the scope of the Rule 30(b)(6). Also
10 objection, lack of foundation.

11 MR. ICOVE: And for the record, I
12 indicated these questions are in addition to
13 the 30(b)(6). And my understanding, based on
14 our conversation is I get a half hour to do
15 these. So let's finish it up and get it done.

16 MR. GARDNER: Ed, that's not
17 consistent with our understanding. We put
18 Dr. Stahl up as a 30(b)(6) designee only. You
19 did not seek to take Dr. Stahl's deposition in
20 an individual capacity. I'm only going to
21 give you a little bit of latitude if you have
22 a few questions for her. Let's be clear this
23 is not per agreement at all.

24 MR. ICOVE: Okay. Well, I'll be
25 more careful next time we make agreements.

1 Our agreement was that any of the 30(b)(6)
2 people that I wanted to testify to other
3 issues, they would count as a separate half an
4 hour deposition. And I'm sorry that we don't
5 agree on that, but let's not waste any more
6 time, okay?

7 MR. GARDNER: That's fine.

8 Q What is your position regarding why the
9 gender-affirming surgery hasn't been completed
10 for Kellie?

11 MR. GARDNER: Objection. Beyond
12 the scope of the Rule 30(b)(6) deposition.

13 MR. ICOVE: I'll stipulate to
14 your continuing objection on those bases. You
15 can object every time you want to, but just as
16 I indicated, I preserve those. And all these
17 questions are going to be subject to the same
18 objection.

19 MR. GARDNER: I understand.

20 Q Okay. Could you answer the question please if
21 you can?

22 A Rephrase the question please.

23 Q I will.

24 Is it your understanding that Kellie
25 was turned down for the surgery because she

1 didn't complete the requirements of her
2 ability to be successfully transitioned to a
3 female facility?

4 A Yeah, I actually cannot answer that question
5 at all.

6 Q That's fine.

7 A Yeah. I don't have the knowledge of -- you
8 know, I don't have enough knowledge of her
9 medical care and all of the factors that weigh
10 into her treatment plan to answer that
11 question.

12 Q Right. And in answering the questions
13 regarding people that have had surgery for
14 serious medical conditions, and putting aside
15 gender surgery, in the last five years or so
16 what serious medical impairments were referred
17 out for surgery for these inmates, just off
18 the top of your head?

19 MR. GARDNER: Objection. Lack of
20 foundation. Overbroad.

21 THE WITNESS: I don't know what
22 he's asking.

23 A I'm sorry I don't even know -- I don't know
24 the question. I don't understand the
25 question.

1 Q That's fine. I'm asking you, regardless of
2 what your attorney says, and, you know, he's
3 really not allowed to tell you or give you any
4 hint as to whether you should object or not
5 object to something if you don't understand
6 it. You're supposed to have a conversation
7 with me. So let's -- I only got a couple more
8 questions.

9 Are you aware of any other inmates that
10 had been treated for serious medical
11 impairments outside of the prison system? We
12 talked briefly about it and we mentioned --
13 you mentioned -- I just wanted to follow-up.

14 A You mean any -- of course. Any serious
15 medical conditions whose needs cannot be met
16 at an outpatient clinic are referred out to
17 medical hospitals and specialty centers.

18 Q Okay. And can you give me examples of those
19 types of serious medical impairments?
20 Obviously it wouldn't be all inclusive, but
21 just off the top of your head.

22 A It could be a number of things. End stage
23 kidney disease, cancer, referrals for cell
24 organ transplants. I mean, the list is huge.
25 Severe head trauma, and to include gender-

1 affirming treatment, if there are co-existing
2 medical conditions that would flag the patient
3 for high risk such as pre-existing cancer or
4 even blood clotting disorders. There could be
5 a number of complicating co-existing serious
6 conditions in a gender nonbinary patient who
7 would require comanagement by a subspecialist.

8 Q I don't have any further questions of you.
9 You're entitled to -- I want to thank you very
10 much for coming today and telling us what you
11 know. You're entitled to review the
12 deposition for any corrections, or you can
13 waive your signature. That's up to you and
14 your attorney.

15 MR. GARDNER: The witness will
16 reserve the write to read and sign.

17 MR. ICOVE: Thank you. Let's go
18 off the record.

19 (Deposition concluded at 10:06 a.m.)

20 (Signature not waived.)

21 - - -
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23
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25

SIGNATURE PAGE

Case Name: Tony Fisher, etc., vs. Federal Bureau of
Prisons, et al.

Case Number: 4:19CV1169

Deponent: Elizabeth Stahl, M.D.

Date: Friday July 23, 2021

To the Reporter:

I have read the entire transcript of my
Deposition taken in the captioned matter or the same
has been read to me. I request that the following
changes be entered upon the record for the reasons
indicated.

I have signed my name to the Errata Sheet and the
appropriate Certificate and authorize you to attach
both to the original transcript.

Elizabeth Stahl, M.D.

Subscribed and sworn to before me this

_____ day of _____, 2025.

Notary Public

My commission expires:_____.

PINCUN-MANCINI -- THE COURT REPORTERS

(216)696-2272

I have read the foregoing transcript from page 1
through page 41 and note the following corrections:

PAGE-LINE	REQUESTED CHANGE	REASON FOR CHANGE
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Elizabeth Stahl, M.D.

Date

1 State of Ohio,)
 2 County of Cuyahoga,) SS: CERTIFICATE

3 I, Karen A. Toth, Notary Public in and for the
 4 State of Ohio, duly commissioned and qualified, do
 5 hereby certify that the within named witness,
 6 Elizabeth Stahl, was by me first duly sworn to
 7 testify the truth, the whole truth, and nothing but
 8 the truth in the cause aforesaid; that the testimony
 9 then given by her was by me reduced to
 10 stenotypy/computer in the presence of said witness,
 11 afterward transcribed, and that the foregoing is a
 12 true and correct transcript of the testimony so
 13 given by her as aforesaid.

14 I do further certify that this deposition was
 15 taken at the time and place in the foregoing caption
 16 specified and was completed without adjournment

17 I do further certify that I am not a relative,
 18 counsel, or attorney of either party, or otherwise
 19 interested in the event of this action.

20 IN WITNESS WHEREOF, I have hereunto set my
 21 hand and affixed my seal of office at Cleveland,
 22 Ohio on this 5th day of August, 2021.

23 *Karen A. Toth*
 24 Karen A. Toth, Notary Public in
 25 and for the State of Ohio.
 My Commission expires May 6, 2023



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I have read the foregoing transcript from page 1 through page 41 and note the following corrections:

PAGE-LINE	REQUESTED CHANGE	REASON FOR CHANGE
Page 11:24	UCSF, not UCFF	mis-transcribed
Page 19:4	hematuria, not hematology	mis-transcribed
Page 22:6	"by policy", not "my policy"	mis-transcribed
Page 30:23	"other prisoners", not "other prisons"	mis-transcribed
Page 40:24	"solid organ", not "cell organ"	mis-transcribed
throughout	The witness's first name is Elizabete, not Elizabeth, and she is a D.O., not an M.D.	error

ELIZABETE STAHL Digitally signed by ELIZABETE STAHL
Date: 2021.08.09 15:16:43 -04'00'

Date

Elizabete Stahl, D.O.

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